MOTION FILED
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(9)

No. 97-282

In The

Supreme Court of the United States

October Term, 1997

BETH ANN FARAGHER,

Petitioner,

v.

THE CITY OF BOCA RATON, a political subdivision of the State of Florida,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

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MOTION FOR LEAVE TO FILE BRIEF OUT OF TIME

MARGARET A. HARRIS
Counsel of Record
BUTLER & HARRIS
3223 Smith Street
Suite 308
Houston, TX 77006
(713) 526-5677

H. CANDACE GORMAN
LAW OFFICE OF
H. CANDACE GORMAN
542 South Dearborn Street
Suite 1060
Chicago, IL 60605
(312) 427-2313

Attorneys for Amicus Curiae
National Employment Lawyers Association

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Now comes amicus curiae National Employment Lawyers Association (NELA) and respectfully requests this Court to grant leave to file its amicus curiae brief out of time. In support of the motion, amicus shows as follows:

1. In this Court's November 14, 1997 Order granting certiorari in the above-captioned case, this Court indicated that petitioner's brief (and accordingly all amicus briefs submitted in support of petitioner) were to be filed with the Clerk on or before 3:00 p.m. on Monday, December 29, 1997. This Order also indicated that Rule 29.2, which would permit amicus NELA's brief to be considered timely filed if postmarked on this date, did not apply.

2. Amicus counsel was aware of the deadline contained within this Court's Order, and communicated this information to Cockle Printing, the printing company with whom amicus had contracted to provide printing services, in order to ensure the brief was filed in a timely manner. However, this information was unfortunately miscommunicated and not conveyed to the appropriate individual on Cockle Printing staff. Cockle Printing transmitted the brief via Express Mail overnight delivery on December 29, believing this to constitute a timely filing under Rule 29.2. Ms. Kathleen Tycz of this Court's staff has informed amicus counsel that the brief was actually received by the Court on December 30, 1997.

Accordingly, amicus curiae respectfully requests that its brief submitted in the above-captioned matter be considered timely filed by this Court.

Respectfully submitted,

MARGARET HARRIS
Counsel of Record